

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on February 26, 2009, claims 1-6 and 9-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,386,883 to Siefert (hereinafter “Siefert”) in view of U.S. Patent No. 6,149,441 to Pellegrino et al. (hereinafter “Pellegrino”). Applicant respectfully provides the following:

“[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a prima facie case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). M.P.E.P. § 2141 sets forth the *Graham* factual enquiries that should be considered when making an obviousness rejection under Section 103: 1) ascertaining the scope and content of the prior art; 2) ascertaining the differences between the claimed invention and the prior art; and 3) resolving the level of ordinary skill in the pertinent art. (Citing *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966).) In addition, M.P.E.P. §§ 2141 and 2142 set forth that “the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” (Citing *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007).)

For a rejection under Section 103 to stand, it must explicitly set forth 1) factual findings showing that each claim element was known in the art at the time of the invention, and 2) factual findings showing that one of ordinary skill in the art, at the time of the invention, would have found it obvious to modify or combine the teachings to arrive at the claimed invention. (See, for example, the enumerated required articulations set forth in M.P.E.P. § 2143 for each lettered rationale.)

Applicant respectfully submits that the Office Action fails to set forth factual findings showing that each claim element was known in the art or that it would have been obvious to modify or combine the teachings of the cited references to arrive at the claimed invention. For example, claim 1 recites a system for professional development of instructors (not for instruction of students) including providing training to an instructor, allowing the instructor to teach according to a lesson plan developed according to the claimed system, and assessing success of the training of the instructor. Such claim elements are not taught by the cited references and the office action fails to show how one of skill in the art would have found it obvious to modify the teachings of the various references to arrive at the claimed invention.

Siefert discloses systems for use in computer-assisted education of students (not teachers). (See Abstract.) Siefert discusses that the teachers have Teachers' Guides to assist in giving assignments to the students within the system to cover different problems that may arise. (Col. 15 lines 48-53) The Office Action alleges that the Teachers' Guides discussed in Siefert read on the claimed element of providing training to an instructor. Even if this is the case, Siefert fails to disclose any evaluation or assessment of success of training in improving teaching by the instructor, as is required by claim 1. Thus, while Siefert teaches a computer system for instructing students, Siefert fails to disclose a system for professional development of instructors as claimed in claim 1. Pellegrino also fails to disclose such a system or the elements not taught by Siefert.

Pellegrino is simply relied upon in the Office Action as disclosing providing tools for developing lesson plans. Pellegrino teaches a computer-based teaching system where the teacher

prepares customized lessons, and then the lessons are presented by a computer. (Abstract; see also Col. 2 lines 62-65, Col. 3 lines 30-31 and lines 49-52, Col. 26 lines 7-8.) Therefore, in Pellegrino, the teacher does not present the lesson at all. Pellegrino therefore fails to teach the elements of claim 1 of allowing the instructor to teach according to the lesson plan and assessing success of the training in improving the instructor's teaching. Therefore, Pellegrino also fails to teach what is not taught by Siefert, and fails to teach a system for professional development of instructors as recited in claim 1.

The Office Action fails to address how one of skill in the art would have found it obvious to modify the combined teachings of Siefert and Pellegrino to overcome the differences between the cited references and the claimed invention. Therefore, a *prima facie* case of obviousness has not been shown, and the rejection of claim 1 should be removed, along with the rejections of its dependent claims 2-6

Independent claim 9 includes similar limitations to those discussed above with respect to claim 1, and is therefore similarly allowable. Specifically, claim 9 recites a method for providing professional training and development to instructors comprising providing information to an instructor, facilitating the instructor's instruction of individuals using an instructional plan developed according to the claimed method, and utilizing the Internet to assess the instructor's implementation of the information in the instructor's instruction. Therefore, claim 9 and its dependent claims 10-11 are allowable for similar reasons to those set forth above with respect to claim 1.

Independent claim 12 includes similar limitations to those discussed above with respect to claim 1, and is therefore similarly allowable with its dependent claims 13-17. Claim 12 recites a process to evaluate professional development training comprising broadcasting standards through a communication media to train a professional; implementing a lesson plan developed according to the claimed process into lessons for students; and analyzing data to assess the professional's implementation of the lesson plan development matrix. Such limitations distinguish the claimed invention from Siefert and Pellegrino for at least the reasons discussed above.

Independent claim 18 also includes similar distinguishing limitations. Claim 18 recites training a professional instructor, teaching a lesson to students by the professional instructor according to a lesson plan developed according to the claimed method, and assessing the professional instructor and training of the professional instructor. Such limitations distinguish over the cited references, and claim 18 is therefore allowable along with its dependent claims 19-22.

Therefore, as the cited references fail to show all elements of the claim set provided herein and as the Office Action fails to show how one of skill in the art would have found it obvious to modify the references to arrive at the claimed invention, Applicants respectfully request removal of all rejections under 35 U.S.C. § 103(a).

CONCLUSION

Applicant submits the claims are now in condition for allowance and respectfully requests the same. If any impediments to this application remain after consideration of the foregoing amendments and remarks, the Examiners is invited to initiate a telephone conference with the undersigned attorney of record.

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Respectfully submitted,



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